

House File 923 - Enrolled

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HOUSE FILE 923

AN ACT

RELATING TO THE POLICY AND TECHNICAL ADMINISTRATION OF THE TAX
AND RELATED LAWS BY THE DEPARTMENT OF REVENUE, INCLUDING
ADMINISTRATION OF INCOME, SALES, USE, CIGARETTE, AND
TOBACCO TAXES, PROVIDING AN EFFECTIVE DATE, AND PROVIDING
RETROACTIVE APPLICABILITY DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I TAX ADMINISTRATION

Section 1. Section 15E.44, subsection 1, Code 2007, is
amended to read as follows:

1. In order for an equity investment to qualify for a tax
credit, the business in which the equity investment is made
shall, within one hundred twenty days of the date of the first
investment, notify the board of the names, addresses, ~~taxpayer~~
~~identification numbers~~, shares issued, consideration paid for
the shares, and the amount of any tax credits, of all
shareholders who may initially qualify for the tax credits,
and the earliest year in which the tax credits may be
redeemed. The list of shareholders who may qualify for the
tax credits shall be amended as new equity investments are
sold or as any information on the list shall change.

Sec. 2. Section 15E.45, subsection 3, paragraph a,
subparagraph (1), Code 2007, is amended to read as follows:

(1) The names, addresses, ~~taxpayer identification numbers~~,
equity interests issued, consideration paid for the interests,
and the amount of any tax credits.

Sec. 3. Section 331.434, subsection 1, Code 2007, is
amended to read as follows:

1. The budget shall show the amount required for each
class of proposed expenditures, a comparison of the amounts
proposed to be expended with the amounts expended for like
purposes for the two preceding years, the revenues from
sources other than property taxation, and the amount to be
raised by property taxation, in the detail and form prescribed
by the director of the department of management. For each
county that has established an urban renewal area, the budget
shall include estimated and actual tax increment financing
revenues and all estimated and actual expenditures of the
revenues, proceeds from debt and all estimated and actual
expenditures of the debt proceeds, and identification of any
entity receiving a direct payment of taxes funded by tax
increment financing revenues and shall include the total
amount of loans, advances, indebtedness, or bonds outstanding
at the close of the most recently ended fiscal year, which
qualify for payment from the special fund created in section
403.19, including interest negotiated on such loans, advances,
indebtedness, or bonds. For purposes of this subsection,
"indebtedness" includes written agreements whereby the county
agrees to suspend, abate, exempt, rebate, refund, or reimburse
property taxes, provide a grant for property taxes paid, or
make a direct payment of taxes, with moneys in the special
fund. The amount of loans, advances, indebtedness, or bonds
shall be listed in the aggregate for each county reporting.
The county finance committee, in consultation with the
department of management and the legislative services agency,
shall determine reporting criteria and shall prepare a form
for reports filed with the department pursuant to this
section. The department shall make the information available
by electronic means.

Sec. 4. Section 384.16, subsection 1, unnumbered paragraph
2, Code 2007, is amended to read as follows:

A budget must show comparisons between the estimated
expenditures in each program in the following year, the latest
estimated expenditures in each program in the current year,
and the actual expenditures in each program from the annual
report as provided in section 384.22, or as corrected by a
subsequent audit report. Wherever practicable, as provided in
rules of the committee, a budget must show comparisons between

3 4 the levels of service provided by each program as estimated
3 5 for the following year, and actual levels of service provided
3 6 by each program during the two preceding years. For each city
3 7 that has established an urban renewal area, the budget shall
3 8 include estimated and actual tax increment financing revenues
3 9 and all estimated and actual expenditures of the revenues,
3 10 proceeds from debt and all estimated and actual expenditures
3 11 of the debt proceeds, and identification of any entity
3 12 receiving a direct payment of taxes funded by tax increment
3 13 financing revenues and shall include the total amount of
3 14 loans, advances, indebtedness, or bonds outstanding at the
3 15 close of the most recently ended fiscal year, which qualify
3 16 for payment from the special fund created in section 403.19,
3 17 including interest negotiated on such loans, advances,
3 18 indebtedness, or bonds. For purposes of this subsection,
3 19 "indebtedness" includes written agreements whereby the city
3 20 agrees to suspend, abate, exempt, rebate, refund, or reimburse
3 21 property taxes, provide a grant for property taxes paid, or
3 22 make a direct payment of taxes, with moneys in the special
3 23 fund. The amount of loans, advances, indebtedness, or bonds
3 24 shall be listed in the aggregate for each city reporting. The
3 25 city finance committee, in consultation with the department of
3 26 management and the legislative services agency, shall
3 27 determine reporting criteria and shall prepare a form for
3 28 reports filed with the department pursuant to this section.
3 29 The department shall make the information available by
3 30 electronic means.

3 31 Sec. 5. Section 421.26, Code 2007, is amended to read as
3 32 follows:

3 33 421.26 PERSONAL LIABILITY FOR TAX DUE.

3 34 If a licensee or other person under section 452A.65, a
3 35 retailer or purchaser under chapter 423A, ~~or~~ 423B, ~~or~~ 423E, or
4 1 section 423.31 or 423.33, or a retailer or purchaser under
4 2 section 423.32, ~~or~~ a user under section 423.34, or permit
4 3 holder or licensee under section 453A.13, 453A.16, or 453A.44

4 4 fails to pay a tax under those sections when due, an officer
4 5 of a corporation or association, notwithstanding sections
4 6 490A.601 and 490A.602, a member or manager of a limited
4 7 liability company, or a partner of a partnership, having
4 8 control or supervision of or the authority for remitting the
4 9 tax payments and having a substantial legal or equitable
4 10 interest in the ownership of the corporation, association,
4 11 limited liability company, or partnership, who has
4 12 intentionally failed to pay the tax is personally liable for
4 13 the payment of the tax, interest, and penalty due and unpaid.
4 14 However, this section shall not apply to taxes on accounts
4 15 receivable. The dissolution of a corporation, association,
4 16 limited liability company, or partnership shall not discharge
4 17 a person's liability for failure to remit the tax due.

4 18 Sec. 6. Section 421.27, subsection 1, Code 2007, is
4 19 amended by adding the following new paragraph:

4 20 NEW PARAGRAPH. m. That an Iowa inheritance tax return is
4 21 filed for an estate within the later of nine months from the
4 22 date of death or sixty days from the filing of a disclaimer by
4 23 the beneficiary of the estate refusing to take the property or
4 24 right or interest in the property.

4 25 Sec. 7. Section 421.27, subsection 2, Code 2007, is
4 26 amended by adding the following new paragraph:

4 27 NEW PARAGRAPH. i. That an Iowa inheritance tax return is
4 28 filed for an estate within the later of nine months from the
4 29 date of death or sixty days from the filing of a disclaimer by
4 30 the beneficiary of the estate refusing to take the property or
4 31 right or interest in the property.

4 32 Sec. 8. Section 422.7, subsection 32, Code 2007, is
4 33 amended by adding the following new paragraph:

4 34 NEW PARAGRAPH. c. Add the amount resulting from a
4 35 withdrawal made by a taxpayer from the Iowa educational
5 1 savings plan trust for purposes other than the payment of
5 2 qualified education expenses to the extent previously deducted
5 3 as a contribution to the trust.

5 4 Sec. 9. Section 422.11S, subsection 1, Code 2007, is
5 5 amended to read as follows:

5 6 1. The taxes imposed under this division less the credits
5 7 allowed under sections 422.12 and 422.12B shall be reduced by
5 8 a school tuition organization tax credit equal to sixty=five
5 9 percent of the amount of the voluntary cash or noncash
5 10 contributions made by the taxpayer during the tax year to a
5 11 school tuition organization, subject to the total dollar value
5 12 of the organization's tax credit certificates as computed in
5 13 subsection 7. The tax credit shall be claimed by use of a tax
5 14 credit certificate as provided in subsection 6.

5 15 Sec. 10. Section 422.11S, subsection 2, Code 2007, is
5 16 amended by adding the following new paragraph:

5 17 NEW PARAGRAPH. c. The value of a noncash contribution
5 18 shall be appraised pursuant to rules of the director.

5 19 Sec. 11. Section 422.11S, subsection 6, paragraph d, Code
5 20 2007, is amended to read as follows:

5 21 d. Each school that is served by a school tuition
5 22 organization shall submit a participation form annually to the
5 23 department by ~~October 15~~ November 1 providing the following
5 24 information:

5 25 (1) Certified enrollment as of ~~the third Friday of~~
~~5 26 September October 1, or the first Monday in October if October~~
5 27 1 falls on a Saturday or Sunday.

5 28 (2) The school tuition organization that represents the
5 29 school. A school shall only be represented by one school
5 30 tuition organization.

5 31 Sec. 12. Section 422.11S, subsection 7, paragraph b,
5 32 unnumbered paragraph 1, Code 2007, is amended to read as
5 33 follows:

5 34 Each year by ~~November 15~~ December 1, the department shall
5 35 authorize school tuition organizations to issue tax credit
6 1 certificates for the following tax year. However, for the tax
6 2 year beginning in the 2006 calendar year only, the department,
6 3 by September 1, 2006, shall authorize school tuition
6 4 organizations to issue tax credit certificates for the 2006
6 5 calendar tax year. For the tax year beginning in the 2006
6 6 calendar year only, each school served by a school tuition
6 7 organization shall submit a participation form to the
6 8 department by August 1, 2006, providing the certified
6 9 enrollment as of the third Friday of September 2005, along
6 10 with the school tuition organization that represents the
6 11 school. Tax credit certificates available for issue by each
6 12 school tuition organization shall be determined in the
6 13 following manner:

6 14 Sec. 13. Section 422.11S, subsection 8, unnumbered
6 15 paragraph 1, Code 2007, is amended to read as follows:

6 16 A school tuition organization that receives a voluntary
6 17 cash or noncash contribution pursuant to this section shall
6 18 report to the department, on a form prescribed by the
6 19 department, by January 12 of each tax year all of the
6 20 following information:

6 21 Sec. 14. Section 422.12E, unnumbered paragraph 2, Code
6 22 2007, is amended to read as follows:

6 23 If more checkoffs are enacted in the same session of the
6 24 general assembly than there is space for inclusion on the
6 25 individual tax return form, the earliest enacted checkoffs for
6 26 which there is space for inclusion on the return form shall be
6 27 included on the return form, and all other checkoffs enacted
6 28 during that session of the general assembly are repealed. If
~~6 29 more checkoffs are enacted in the same session of the general~~
~~6 30 assembly than there is space for inclusion on the individual~~
~~6 31 income tax form and the additional checkoffs are enacted on~~
~~6 32 the same day, the director shall determine which checkoffs~~
~~6 33 shall be included on the return form.~~

6 34 Sec. 15. Section 422.13, subsection 5, Code 2007, is
6 35 amended to read as follows:

7 1 5. Notwithstanding subsections 1 through 4 and sections
7 2 422.15 and 422.36, a partnership, a limited liability company
7 3 whose members are taxed on the company's income under
7 4 provisions of the Internal Revenue Code, trust, or corporation
7 5 whose stockholders are taxed on the corporation's income under
7 6 the provisions of the Internal Revenue Code may, not later
7 7 than the due date for filing its return for the taxable year,
7 8 including any extension thereof, elect to file a composite
7 9 return for the nonresident partners, members, beneficiaries,
7 10 or shareholders. Nonresident trusts or estates which are
~~7 11 partners, members, beneficiaries, or shareholders in~~
~~7 12 partnerships, limited liability companies, trusts, or S~~
~~7 13 corporations may also be included on a composite return.~~ The
7 14 director may require that a composite return be filed under
7 15 the conditions deemed appropriate by the director. A
7 16 partnership, limited liability company, trust, or corporation
7 17 filing a composite return is liable for tax required to be
7 18 shown due on the return. All powers of the director and
7 19 requirements of the director apply to returns filed under this
7 20 subsection including, but not limited to, the provisions of
7 21 this division and division VI of this chapter.

7 22 Sec. 16. Section 422.16, subsection 12, Code 2007, is
7 23 amended by adding the following new unnumbered paragraph:

7 24 NEW UNNUMBERED PARAGRAPH. Notwithstanding this subsection,
7 25 withholding agents are not required to withhold state income

7 26 tax from a partner's pro rata share of income from a publicly
7 27 traded partnership, as defined in section 7704(b) of the
7 28 Internal Revenue Code, provided that the publicly traded
7 29 partnership files with the department an information return
7 30 that reports the name, address, taxpayer identification
7 31 number, and any other information requested by the department
7 32 for each unit holder with an income in this state from the
7 33 publicly traded partnership in excess of five hundred dollars.
7 34 Sec. 17. Section 422.35, subsection 17, Code 2007, is
7 35 amended to read as follows:

8 1 17. Subtract the amount of the employer social security
8 2 credit allowable for the tax year under section 45B of the
8 3 Internal Revenue Code to the extent that the credit increases
8 4 federal ~~adjusted gross taxable~~ income.

8 5 Sec. 18. Section 422.73, subsection 3, Code 2007, is
8 6 amended by striking the subsection.

8 7 Sec. 19. Section 422.75, Code 2007, is amended to read as
8 8 follows:

8 9 422.75 STATISTICS == PUBLICATION.

8 10 The department shall prepare and publish an annual report
8 11 which shall include statistics reasonably available, with
8 12 respect to the operation of this chapter, including amounts
8 13 collected, classification of taxpayers, and such other facts
8 14 as are deemed pertinent and valuable. The annual report shall
8 15 also include the reports and information required pursuant to
8 16 ~~section 421.1, subsection 4, paragraph "e"; section 421.17,~~
8 17 ~~subsection 13; section 421.17, subsection 27, paragraph "h";~~
8 18 ~~and section 421.60, subsection 2, paragraphs "i" and "l"; and~~
8 19 ~~1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph~~
8 20 ~~"a".~~

8 21 Sec. 20. Section 423.2, subsection 6, unnumbered paragraph
8 22 2, Code 2007, is amended to read as follows:

8 23 For the purposes of this subsection, "financial
8 24 institutions" means all national banks, federally chartered
8 25 savings and loan associations, federally chartered savings
8 26 banks, federally chartered credit unions, banks organized
8 27 under chapter 524, savings and loan associations and savings
8 28 banks organized under chapter 534, ~~and~~ credit unions organized
8 29 under chapter 533, ~~and all banks, savings banks, credit~~
8 30 ~~unions, and savings and loan associations chartered or~~
8 31 ~~otherwise created under the laws of any state and doing~~
8 32 ~~business in Iowa.~~

8 33 Sec. 21. Section 423.3, subsection 65, Code 2007, is
8 34 amended to read as follows:

8 35 65. The sales price from charges paid to a provider for
9 1 access to on-line computer services. For purposes of this
9 2 subsection, "on-line computer service" means a service that
9 3 provides or enables computer access by multiple users to the
9 4 internet or to other information made available through a
9 5 computer server or other device.

9 6 Sec. 22. Section 423.3, subsection 80, paragraph b, Code
9 7 2007, is amended to read as follows:

9 8 b. If a contractor, subcontractor, or builder is to use
9 9 building materials, supplies, and equipment in the performance
9 10 of a construction contract with a designated exempt entity,
9 11 the person shall purchase such items of tangible personal
9 12 property without liability for the tax if such property will
9 13 be used in the performance of the construction contract and a
9 14 purchasing agent authorization letter and an exemption
9 15 certificate, issued by the designated exempt entity, are
9 16 presented to the retailer. The sales price of building
9 17 materials, supplies, or equipment is exempt from tax by this
9 18 subsection only to the extent the building materials,
9 19 supplies, or equipment are completely consumed in the
9 20 performance of the construction contract with the designated
9 21 exempt entity.

9 22 Sec. 23. Section 423.41, Code 2007, is amended to read as
9 23 follows:

9 24 423.41 BOOKS == EXAMINATION.

9 25 Every retailer required or authorized to collect taxes
9 26 imposed by this chapter and every person using in this state
9 27 tangible personal property, services, or the product of
9 28 services shall keep records, receipts, invoices, and other
9 29 pertinent papers as the director shall require, in the form
9 30 that the director shall require, for as long as the director
9 31 has the authority to examine and determine tax due. The
9 32 director or any duly authorized agent of the department may
9 33 examine the books, papers, records, and equipment of any
9 34 person either selling tangible personal property or services
9 35 or liable for the tax imposed by this chapter, and investigate
10 1 the character of the business of any person in order to verify

10 2 the accuracy of any return made, or if a return was not made
10 3 by the person, ascertain and determine the amount due under
10 4 this chapter. These books, papers, and records shall be made
10 5 available within this state for examination upon reasonable
10 6 notice when the director deems it advisable and so orders. If
10 7 the taxpayer maintains any records in an electronic format,
10 8 the taxpayer shall comply with reasonable requests by the
10 9 director or the director's authorized agents to provide those
10 10 electronic records in a standard record format. The preceding
10 11 requirements shall likewise apply to users and persons
10 12 furnishing services enumerated in section 423.2.
10 13 Sec. 24. Section 423A.4, unnumbered paragraph 3, Code
10 14 2007, is amended to read as follows:
10 15 A local hotel and motel tax shall be imposed on January 1
10 16 or July 1, following the notification of the director of
10 17 revenue. Once imposed, the tax shall remain in effect at the
10 18 rate imposed for a minimum of one year. A local hotel and
10 19 motel tax shall terminate only on June 30 or December 31. At
10 20 least forty-five days prior to the tax being effective or
10 21 prior to a revision in the tax rate, or prior to the repeal of
10 22 the tax, a city or county shall provide notice by mail of such
10 23 action to the director of revenue. The director shall have
10 24 the authority to waive the notice requirement.
10 25 Sec. 25. Section 423B.1, subsection 6, paragraph b, Code
10 26 2007, is amended to read as follows:
10 27 b. Within ten days of the election at which a majority of
10 28 those voting on the question favors the imposition, repeal, or
10 29 change in the rate of a local option tax, the county auditor
10 30 shall give written notice of the result of the election by
10 31 sending a copy of the abstract of the votes from the favorable
10 32 election to the director of revenue or, in the case of a local
10 33 vehicle tax, to the director of the department of
10 34 transportation. The appropriate director shall have the
10 35 authority to waive the notice requirement.
11 1 Sec. 26. Section 423E.2, subsection 5, paragraph b, Code
11 2 2007, is amended to read as follows:
11 3 b. Within ten days of the election at which a majority of
11 4 those voting on the question favors the imposition, repeal,
11 5 extension, or change in the rate of the tax, the county
11 6 auditor shall give written notice of the result of the
11 7 election by sending a copy of the abstract of the votes from
11 8 the favorable election to the director of revenue. Election
11 9 costs shall be apportioned among school districts within the
11 10 county on a pro rata basis in proportion to the number of
11 11 registered voters in each school district who reside within
11 12 the county and the total number of registered voters within
11 13 the county. The director shall have the authority to waive
11 14 the notice requirement.
11 15 Sec. 27. Section 427.3, Code 2007, is amended to read as
11 16 follows:
11 17 427.3 ABATEMENT OF TAXES OF CERTAIN EXEMPT ENTITIES.
11 18 The board of supervisors may abate the taxes levied against
11 19 property acquired by gift or purchase by a person or entity if
11 20 the property acquired by gift or purchase was transferred to
11 21 the person or entity after the deadline for filing for
11 22 property tax exemption in the year in which the property was
11 23 transferred and the property acquired by gift or purchase
11 24 would have been exempt under section 427.1, subsection 7, 8,
11 25 or 9, if the person or entity had been able to file for
11 26 exemption in a timely manner.
11 27 Sec. 28. Section 403.23, Code 2007, is repealed.
11 28 Sec. 29. REFUND OF PROPERTY TAXES. Notwithstanding the
11 29 deadline for filing a claim for property tax exemption for
11 30 property described in section 427.1, subsection 8 or 9, and
11 31 notwithstanding any other provision to the contrary, the board
11 32 of supervisors of a county having a population based upon the
11 33 latest federal decennial census of more than eighty-eight
11 34 thousand but not more than ninety-five thousand shall refund
11 35 the property taxes paid, with all interest, penalties, fees,
12 1 and costs which were due and payable in the fiscal year
12 2 beginning July 1, 2002, and in the fiscal year beginning July
12 3 1, 2005, on the land and buildings of an institution that
12 4 purchased property and that did not receive a property tax
12 5 exemption for the property due to the inability or failure to
12 6 file for the exemption. To receive the refund provided for in
12 7 this section, the institution shall apply to the county board
12 8 of supervisors by October 1, 2007, and provide appropriate
12 9 information establishing that the land and buildings for which
12 10 the refund is sought were used by the institution for its
12 11 appropriate objectives during the fiscal year beginning July
12 12 1, 2002, and during the fiscal year beginning July 1, 2005.

12 13 The refund allowed under this section only applies to property
12 14 taxes, with all interest, penalties, fees, and costs, due and
12 15 payable in the fiscal year beginning July 1, 2002, and in the
12 16 fiscal year beginning July 1, 2005.

12 17 Sec. 30. IMMEDIATE EFFECTIVE DATE. The section of this
12 18 division of this Act, amending section 427.3, being deemed of
12 19 immediate importance, takes effect upon enactment and applies
12 20 retroactively to property taxes due and payable in the fiscal
12 21 year beginning July 1, 2002, and in the fiscal year beginning
12 22 July 1, 2005.

12 23 Sec. 31. RETROACTIVE APPLICABILITY DATE. The sections of
12 24 this division of this Act amending section 422.11S,
12 25 subsections 1, 2, and 8, apply retroactively to January 1,
12 26 2007, for tax years beginning on or after that date.

12 27 DIVISION II
12 28 CIGARETTES AND TOBACCO

12 29 Sec. 32. Section 421B.3, Code 2007, is amended by adding
12 30 the following new subsection:

12 31 NEW SUBSECTION. 3. a. The following civil penalties
12 32 shall be imposed for a violation of this section:

12 33 (1) A two hundred dollar penalty for the first violation.

12 34 (2) A five hundred dollar penalty for a second violation

12 35 within three years of the first violation.

13 1 (3) A thousand dollar penalty for a third or subsequent

13 2 violation within three years of the first violation.

13 3 Each day the violation occurs counts as a new violation for
13 4 purposes of this subsection.

13 5 b. The civil penalty imposed under this subsection is in
13 6 addition to the penalty imposed under subsection 1. Penalties
13 7 collected under this subsection shall be deposited into the
13 8 general fund of the state.

13 9 Sec. 33. Section 453A.7, unnumbered paragraph 2, Code
13 10 2007, is amended to read as follows:

13 11 There is appropriated annually from the ~~general fund of the~~
~~13 12 state the sum of one hundred fifteen thousand dollars state~~
~~13 13 treasury from funds not otherwise appropriated an amount~~
~~13 14 sufficient~~ to carry out the provisions of this section.

13 15 Sec. 34. Section 453A.13, subsections 5 and 9, Code 2007,
13 16 are amended to read as follows:

13 17 5. APPLICATION == BOND. ~~Said permits~~ Permits shall be
13 18 issued only upon applications accompanied by the fee indicated
13 19 above, and by an adequate bond as provided in section 453A.14,
13 20 and upon forms furnished by the department upon written
13 21 request. The failure to furnish such forms shall be no excuse
13 22 for the failure to file the ~~same forms~~ unless absolute refusal
13 23 is shown. ~~Said~~ The forms shall set forth all of the
13 24 following:

13 25 a. The manner under which ~~such the~~ distributor,
13 26 wholesaler, or retailer, transacts or intends to transact such
13 27 business as a distributor, wholesaler, or retailer.

13 28 b. The principal office, residence, and place of business,
~~13 29 for which where~~ the permit is to apply.

13 30 c. If the applicant is not an individual, the principal
13 31 officers or members ~~thereof, not to exceed three,~~ and their
13 32 addresses.

13 33 d. ~~Such~~ Any other information as the director shall by
13 34 rules prescribe.

13 35 9. PERMIT == FORM AND CONTENTS. Each permit issued shall
14 1 describe clearly the place of business for which it is issued,
14 2 shall be nonassignable, consecutively numbered, designating
14 3 the kind of permit, and shall authorize the sale of cigarettes
14 4 in this state subject to the limitations and restrictions
14 5 herein contained. The retail permits shall be upon forms
14 6 furnished by the department or on forms made available or
14 7 approved by the department.

14 8 Sec. 35. Section 453A.13, Code 2007, is amended by adding
14 9 the following new subsection:

14 10 NEW SUBSECTION. 10. PERMIT DISPLAYED. The permit shall,
14 11 at all times, be publicly displayed by the distributor,
14 12 wholesaler, or retailer at the place of business so as to be
14 13 easily seen by the public and the persons authorized to
14 14 inspect the place of business. The proprietor or keeper of
14 15 any building or place where cigarettes and other tobacco
14 16 products are kept for sale, or with intent to sell, shall upon
14 17 request of any agent of the department or any peace officer
14 18 exhibit the permit. A refusal or failure to exhibit the
14 19 permit is prima facie evidence that the cigarettes or other
14 20 tobacco products are kept for sale or with intent to sell in
14 21 violation of this division.

14 22 Sec. 36. Section 453A.15, subsection 2, Code 2007, is
14 23 amended to read as follows:

14 24 2. Where a state permit holder sells cigarettes at retail,
14 25 the holder shall be required to ~~issue an invoice to the~~
~~14 26 holder's retail department for maintain detailed records for~~
~~14 27 sales of cigarettes to be sold at retail and such the~~
14 28 cigarette invoices sales records shall be kept separate and
14 29 apart.

14 30 Sec. 37. Section 453A.15, Code 2007, is amended by adding
14 31 the following new subsection:
14 32 NEW SUBSECTION. 7. The director may require by rule that
14 33 reports required to be made under this division be filed by
14 34 electronic transmission.

14 35 Sec. 38. Section 453A.18, Code 2007, is amended to read as
15 1 follows:
15 2 453A.18 FORMS FOR RECORDS AND REPORTS.
15 3 The department shall furnish or make available in
~~15 4 electronic form~~, without charge, to holders of the various
15 5 permits, forms in sufficient quantities to enable permit
15 6 holders to make the reports required to be made under this
15 7 division. The permit holders shall furnish at their own
15 8 expense the books, records, and invoices, required to be used
15 9 and kept, but the books, records, and invoices shall be in
15 10 exact conformity to the forms prescribed for that purpose by
15 11 the director, and shall be kept and used in the manner
15 12 prescribed by the director. However, the director may, by
15 13 express order in certain cases, authorize permit holders to
15 14 keep their records in a manner and upon forms other than those
15 15 ~~so~~ prescribed. The authorization may be revoked at any time.

15 16 Sec. 39. Section 453A.24, Code 2007, is amended to read as
15 17 follows:
15 18 453A.24 CARRIER TO PERMIT ACCESS TO RECORDS.
15 19 1. Every common carrier or person in this state having
15 20 custody of books or records showing the transportation of
15 21 cigarettes both interstate and intrastate shall give and allow
15 22 the department free access to such those books and records.
15 23 2. The director may require by rule that common carriers
~~15 24 or the appropriate persons provide monthly reports to the~~
~~15 25 department detailing all information the department deems~~
~~15 26 necessary on shipments into and out of Iowa of cigarettes and~~
~~15 27 tobacco products as set forth in divisions I and II of this~~
~~15 28 chapter. The director may require by rule that the reports be~~
~~15 29 filed by electronic transmission.~~

15 30 Sec. 40. Section 453A.25, subsection 3, Code 2007, is
15 31 amended to read as follows:
15 32 3. The director ~~is hereby authorized to appoint an~~
~~15 33 assistant, whose sole duty it shall be may designate employees~~
15 34 to administer and enforce the provisions of this chapter,
15 35 including the collection of all taxes provided for ~~herein in~~
~~16 1 this chapter. In such the enforcement, the director may~~
16 2 request aid from the attorney general, the special agents of
16 3 the state, any county attorney, or any peace officer. The
16 4 director ~~is authorized to may~~ appoint ~~such~~ clerks and
16 5 additional help as may be needed to ~~carry out the provisions~~
~~16 6 of administer~~ this chapter.

16 7 Sec. 41. Section 453A.30, Code 2007, is amended to read as
16 8 follows:
16 9 453A.30 ASSESSMENT OF COST OF AUDIT.
16 10 The department may employ auditors or other persons to
16 11 audit and examine the books and records of any permit holder
16 12 or other person dealing in cigarettes to ascertain whether
16 13 ~~such the~~ permit holder or other person has paid the amount of
16 14 the taxes required to be paid by the holder or person or filed
~~16 15 all reports containing all required information as specified~~
~~16 16 by the department under the provisions of this chapter. If~~
16 17 such taxes have not been paid or such reports not filed, as
16 18 required, the department shall assess against ~~such the~~ permit
16 19 holder or other person, as additional penalty, the reasonable
16 20 expenses and costs of ~~such the~~ investigation and audit.

16 21 Sec. 42. Section 453A.31, Code 2007, is amended by adding
16 22 the following new unnumbered paragraph:
16 23 NEW UNNUMBERED PARAGRAPH. If a cigarette distributor fails
16 24 to file a return or to report timely, stamps shall not be
16 25 provided to that cigarette distributor until all returns and
16 26 reports are filed properly and all tax, penalties, and
16 27 interest are paid.

16 28 Sec. 43. Section 453A.32, Code 2007, is amended by adding
16 29 the following new subsection:
16 30 NEW SUBSECTION. 6. The provisions of this section
16 31 applying to cigarettes shall also apply to tobacco products
16 32 taxed under division II of this chapter.

16 33 Sec. 44. Section 453A.36, subsection 6, Code 2007, is
16 34 amended to read as follows:

16 35 6. Any sales of cigarettes or tobacco products made
17 1 through a cigarette vending machine are subject to rules and
17 2 penalties relative to retail sales of cigarettes and tobacco
17 3 products provided for in this chapter. ~~No cigarettes shall~~
17 4 Cigarettes shall not be sold through any cigarette vending
17 5 machine unless the cigarettes have been properly stamped or
17 6 metered as provided by this division, and in case of violation
17 7 of this provision, the permit of the dealer authorizing retail
17 8 sales of cigarettes shall be ~~canceled~~ revoked. Payment of the
17 9 ~~license permit~~ fee as provided in section 453A.13 authorizes a
17 10 cigarette vendor to sell cigarettes or tobacco products
17 11 through vending machines. However, cigarettes or tobacco
17 12 products shall not be sold through a vending machine unless
17 13 the vending machine is located in a place where the retailer
17 14 ensures that no person younger than eighteen years of age is
17 15 present or permitted to enter at any time. Cigarettes or
17 16 tobacco products shall not be sold through any cigarette
17 17 vending machine if such products are placed together with any
17 18 nontobacco product, other than matches, in the cigarette
17 19 vending machine. This section does not require a retail
17 20 ~~licensee permit holder~~ to buy a cigarette vendor's permit if
17 21 the retail ~~licensee permit holder~~ is in fact the owner of the
17 22 cigarette vending machines and the machines are operated in
17 23 the location described in the retail permit.
17 24 Sec. 45. Section 453A.36, Code 2007, is amended by adding
17 25 the following new subsection:
17 26 NEW SUBSECTION. 7A. It shall be unlawful for a holder of
17 27 a retail permit to sell or distribute any cigarettes or
17 28 tobacco products, including but not limited to a single or
17 29 loose cigarette, that are not contained within a sealed
17 30 carton, pack, or package as provided by the manufacturer,
17 31 which carton, pack, or package bears the health warning that
17 32 is required by federal law.
17 33 Sec. 46. Section 453A.43, subsections 1 and 2, Code 2007,
17 34 as amended by 2007 Iowa Acts, Senate File 128, are amended to
17 35 read as follows:
18 1 1. a. A tax is imposed upon all tobacco products in this
18 2 state and upon any person engaged in business as a distributor
18 3 of tobacco products, at the rate of twenty=two percent of the
18 4 wholesale sales price of the tobacco products, except little
18 5 cigars and snuff as defined in section 453A.42.
18 6 b. In addition to the tax imposed under paragraph "a", a
18 7 tax is imposed upon all tobacco products in this state and
18 8 upon any person engaged in business as a distributor of
18 9 tobacco products, at the rate of twenty=eight percent of the
18 10 wholesale sales price of the tobacco products, except little
18 11 cigars and snuff as defined in section 453A.42, ~~with the~~
18 12 ~~limitation that if the tobacco product is a cigar, the~~
18 13 ~~additional tax shall not exceed fifty cents per cigar.~~
18 14 c. Notwithstanding the rate of tax imposed pursuant to
18 15 paragraphs "a" and "b", if the tobacco product is a cigar, the
18 16 total amount of the tax imposed pursuant to paragraphs "a" and
18 17 "b" combined shall not exceed fifty cents per cigar.
18 18 ~~c.~~ d. Little cigars shall be subject to the same rate of
18 19 tax imposed upon cigarettes in section 453A.6, payable at the
18 20 time and in the manner provided in section 453A.6; and stamps
18 21 shall be affixed as provided in division I of this chapter.
18 22 Snuff shall be subject to the tax as provided in subsections 3
18 23 and 4.
18 24 ~~d.~~ e. The taxes on tobacco products, excluding little
18 25 cigars and snuff, shall be imposed at the time the distributor
18 26 does any of the following:
18 27 (1) Brings, or causes to be brought, into this state from
18 28 outside the state tobacco products for sale.
18 29 (2) Makes, manufactures, or fabricates tobacco products in
18 30 this state for sale in this state.
18 31 (3) Ships or transports tobacco products to retailers in
18 32 this state, to be sold by those retailers.
18 33 2. a. A tax is imposed upon the use or storage by
18 34 consumers of tobacco products in this state, and upon the
18 35 consumers, at the rate of twenty=two percent of the cost of
19 1 the tobacco products.
19 2 b. In addition to the tax imposed in paragraph "a", a tax
19 3 is imposed upon the use or storage by consumers of tobacco
19 4 products in this state, and upon the consumers, at a rate of
19 5 twenty=eight percent of the cost of the tobacco products, ~~with~~
19 6 ~~the limitation that if the tobacco product is a cigar, the~~
19 7 ~~additional tax shall not exceed fifty cents per cigar.~~
19 8 c. Notwithstanding the rate of tax imposed pursuant to
19 9 paragraphs "a" and "b", if the tobacco product is a cigar, the
19 10 total amount of the tax imposed pursuant to paragraphs "a" and

19 11 "b" combined shall not exceed fifty cents per cigar.

19 12 ~~c. d.~~ The taxes imposed by this subsection shall not
19 13 apply if the taxes imposed by subsection 1 on the tobacco
19 14 products have been paid.

19 15 ~~d. e.~~ The taxes imposed under this subsection shall not
19 16 apply to the use or storage of tobacco products in quantities
19 17 of:

19 18 (1) Less than twenty-five cigars.

19 19 (2) Less than one pound smoking or chewing tobacco or
19 20 other tobacco products not specifically mentioned herein, in
19 21 the possession of any one consumer.

19 22 Sec. 47. Section 453A.45, subsection 5, unnumbered
19 23 paragraphs 2 and 4, Code 2007, are amended to read as follows:

19 24 ~~Such~~ The report shall be made on forms provided by the
19 25 director ~~or the director may require by rule that the report~~
19 26 ~~be filed by electronic transmission.~~

19 27 Any person who fails or refuses to transmit to the director
19 28 the required reports or whoever refuses to permit the
19 29 examination of the records by the director shall be guilty of
19 30 a ~~simple~~ serious misdemeanor.

19 31 Sec. 48. Section 453A.46, subsections 1 and 3, Code 2007,
19 32 are amended to read as follows:

19 33 1. On or before the twentieth day of each calendar month
19 34 every distributor with a place of business in this state shall
19 35 file a return with the director showing for the preceding

20 1 calendar month the quantity and wholesale sales price of each
20 2 tobacco product brought, or caused to be brought, into this
20 3 state for sale; ~~and~~ made, manufactured, or fabricated in this
20 4 state for sale in this state, ~~during the preceding calendar~~
20 5 ~~month; and any other information the director may require.~~

20 6 Every licensed distributor outside this state shall in like
20 7 manner file a return with the director showing for the
20 8 preceding calendar month the quantity and wholesale sales
20 9 price of each tobacco product shipped or transported to
20 10 retailers in this state to be sold by those retailers, ~~during~~
20 11 ~~the preceding calendar month and any other information the~~
20 12 ~~director may require.~~ Returns shall be made upon forms

20 13 ~~furnished or made available in electronic form~~ and prescribed
20 14 by the director and shall contain other information as the
20 15 director may require. Each return shall be accompanied by a
20 16 remittance for the full tax liability shown on the return,
20 17 less a discount as fixed by the director not to exceed five
20 18 percent of the tax. Within three years after the return is
20 19 filed or within three years after the return became due,
20 20 whichever is later, the department shall examine it, determine
20 21 the correct amount of tax, and assess the tax against the
20 22 taxpayer for any deficiency. The period for examination and
20 23 determination of the correct amount of tax is unlimited in the
20 24 case of a false or fraudulent return made with the intent to
20 25 evade tax, or in the case of a failure to file a return.

20 26 The three-year ~~period of~~ limitation period may be extended
20 27 by a taxpayer by signing a waiver agreement form ~~to be~~
20 28 provided by the department. The agreement must stipulate the
20 29 ~~period of~~ extension period and the tax period to which the
20 30 extension applies. The agreement must also ~~provide~~ stipulate
20 31 that a claim for refund may be filed by the taxpayer at any
20 32 time during the ~~period of~~ extension period.

20 33 3. In addition to the tax or additional tax, the taxpayer
20 34 shall also pay a penalty as provided in section 421.27 ~~and be~~
20 35 ~~subject to the civil penalties set forth in sections 421.27;~~

21 1 453A.31, subsection 2; and 453A.50, subsection 3, as
21 2 applicable.

21 3 Sec. 49. Section 453A.46, Code 2007, is amended by adding
21 4 the following new subsection:

21 5 NEW SUBSECTION. 7. The director may require by rule that
21 6 reports be filed by electronic transmission.

21 7 Sec. 50. Section 453A.50, subsection 2, Code 2007, is
21 8 amended to read as follows:

21 9 2. ~~Any~~ Except as otherwise provided, any person who
21 10 ~~otherwise~~ violates any provisions of this division shall be
21 11 guilty of a simple misdemeanor.

21 12 Sec. 51. Section 453A.50, Code 2007, is amended by adding
21 13 the following new subsection:

21 14 NEW SUBSECTION. 3. The following civil penalties shall be
21 15 imposed for a violation of this division:

21 16 a. A two hundred dollar penalty for the first violation.

21 17 b. A five hundred dollar penalty for a second violation
21 18 within three years of the first violation.

21 19 c. A thousand dollar penalty for a third or subsequent
21 20 violation within three years of the first violation.

21 21 The penalty imposed in this subsection is in addition to

21 22 the tax, penalty, and interest imposed in other sections of
21 23 this division. Each day a violation occurs counts as a new
21 24 violation for purposes of this subsection.

21 25 Sec. 52. NEW SECTION. 453A.51 ASSESSMENT OF COST OF
21 26 AUDIT.

21 27 The department may employ auditors or other persons to
21 28 audit and examine the books and records of a permit holder or
21 29 other person dealing in tobacco products to ascertain whether
21 30 the permit holder or other person has paid the amount of the
21 31 taxes required to be paid by the permit holder or other person
21 32 under the provisions of this chapter. If the taxes have not
21 33 been paid, as required, the department shall assess against
21 34 the permit holder or other person, as additional penalty, the
21 35 reasonable expenses and costs of the investigation and audit.

22 1 Sec. 53. Section 453C.1, subsection 10, Code 2007, is
22 2 amended to read as follows:

22 3 10. "Units sold" means the number of individual cigarettes
22 4 sold in the state by the applicable tobacco product
22 5 manufacturer, whether directly or through a distributor,
22 6 retailer, or similar intermediary or intermediaries, during
22 7 the year in question, as measured by excise taxes collected by
22 8 the state on packs bearing the excise stamp of the state or on
22 9 roll-your-own tobacco containers. The department of revenue
22 10 shall adopt rules as are necessary to ascertain the amount of
22 11 state excise tax paid on the cigarettes of such tobacco
22 12 product manufacturer for each year.

22 13 Sec. 54. REFUNDS. Refunds of taxes which result from the
22 14 amendment to section 453A.43, in this division of this Act,
22 15 relating to the limitation on the taxes imposed on cigars
22 16 occurring between March 15, 2007, and the effective date of
22 17 the amendment to section 453A.43 in this division of this Act,
22 18 shall not be allowed unless refund claims are filed prior to
22 19 October 1, 2007, notwithstanding any other provision of law.
22 20 Claimants shall not be entitled to interest on any refunds.

22 21 Sec. 55. EFFECTIVE DATE AND APPLICABILITY. The provision
22 22 in this division of this Act amending section 453A.43, and the
22 23 section of this division of this Act providing refunds
22 24 resulting from the amendment of section 453A.43, being deemed
22 25 of immediate importance, take effect upon enactment and are
22 26 retroactively applicable to March 15, 2007.

22 27
22 28

22 29
22 30 _____
22 31 PATRICK J. MURPHY
22 32 Speaker of the House
22 33

22 34
22 35 _____
22 36 JOHN P. KIBBIE
23 1 President of the Senate
23 2

23 3 I hereby certify that this bill originated in the House and
23 4 is known as House File 923, Eighty-second General Assembly.
23 5

23 6
23 7
23 8 _____
23 9 MARK BRANDSGARD
23 10 Chief Clerk of the House

23 11 Approved _____, 2007

23 12
23 13 _____
23 14 CHESTER J. CULVER
23 15 Governor